

### **REMARKS**

These remarks are in response to the Office Action mailed June 30, 2010. Claims 3 and 15 have been cancelled without prejudice to Applicants' right to prosecute the subject matter in any continuation, continuation-in-part, divisional or other application. Claims 1 and 24 have been amended. Support for the amendments can be found, for example, in claims 3 and 15 as previously pending. No new matter is believed to have been introduced.

#### **I. REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH**

Claims 1-11, 14-18 and 24 stand rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards and the invention. Applicants respectfully traverse this rejection with respect to the amended claims.

The Office Action alleges that the term "greater than about" is a relative term that renders the claim indefinite. This is not true. Applicants specification provides statements as to the degree of "about" and a range that fits with the term "about". Thus the term is not so undefined as to render the claim indefinite. However, to advance prosecution and without disclaimer or estoppels, Applicants have amended the claims to remove recitation of "about".

For, at least, the foregoing reasons and amendments Applicants believe that this rejection may be properly withdrawn.

#### **II. REJECTION UNDER 35 U.S.C. §103**

Claims 1-8, 10-11, 13-14, 16-17, 24 and 41-42 stands rejected under 35 U.S.C. §103 as allegedly unpatentably over Strong et al. in view of Mannivannan et al. Applicants respectfully traverse this rejection.

Strong et al. and Mannivannan et al. in combination do not teach or suggest identifying a feeder vessel in the extrafoveal area and inhibiting of preventing blood flow from the feeder vessel. It is the targeting and treatment of the feeder vessel vs. larger areas of the eye that provide a benefit and reduced damage to the eye of the

subject. Although Strong et al. mentions the words "feeder vessel" there is no suggestion or teaching of targeting the vessels as claimed by Applicants.

In addition, Strong et al. and Mannivannan et al. do not teach the use of indocyanine green.

Accordingly, the combination does not provide a prima facie case of obviousness and the rejection may be properly withdrawn.

Claim 15 is rejected as allegedly unpatentable over Strong et al., in view of Mannivannan et al. and further in view of Roach et al. As discussed above, the primary reference fails to teach or suggest targeting a feeder vessel. Accordingly, the combination fails to provide a prima facie case of obviousness.

Claims 1-2, 4-8, 10-11, 13-17, 24 and 41-42 stand rejected as allegedly unpatentable over Levy et al. in view of Jampol et al. and Roach. Applicants respectfully traverse this rejection.

Claims 1 and 24 recite treating a subject with age-related macular degeneration. Jampol et al. is thus not prior art to claims 1 and 24 and claims depending therefrom (see page 22-23 of the Office Action in which the Examiner confirms this position). Thus, the combination of Levy et al. and Roach fail to set forth a prima facie case of obviousness. Accordingly, the rejection may be withdrawn.

Claims 9 and 18 stand rejected as unpatentable over Levy et al. in view of Jampol et al. and Roach and further in view of Levy et al. (U.S. Pat. 4,920,143) (claim 9) or LumaCare (claim 18). Applicants respectfully traverse this rejection.

Claims 9 and 18 are dependent upon claim 1. Claims 1 recites treating a subject with age-related macular degeneration. Jampol et al. is thus not prior art to claim 1 and claims depending therefrom (see page 22-23 of the Office Action in which the Examiner confirms this position). Thus, the combination of Levy et al. and Roach fail to set forth a prima facie case of obviousness. Accordingly, the rejection may be withdrawn.

Claims 1-2, 4-8, 10-11, 13-17 and 24 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Sullivan (Jacksonville Medicine) in view of Jampol *et al.* and further in view of Roach (EyeNet Magazine March 2001).

Claims 1 and 24 recite treating a subject with age-related macular degeneration. Jampol *et al.* is thus not prior art to claims 1 and 24 and claims depending therefrom (see page 22-23 of the Office Action in which the Examiner confirms this position). Thus, the combination of Levy *et al.* and Roach fail to set forth a prima facie case of obviousness. Accordingly, the rejection may be withdrawn.

Claim 9 stands rejected under 35 U.S.C. §103 as allegedly unpatentably over Sullivan *et al.*, in view of Jampol *et al.* and further in view of Roach (EyeNet Magazine March 2001) and further in view of Levy *et al.* (USP 4,620,143). Applicants respectfully traverse this rejection.

Claim 9 is dependent upon claim 1. Each element of the independent claim and any intervening claims is present in claim 9. Claim 1 recites treating a subject with age-related macular degeneration. Jampol *et al.* is thus not prior art to claim 1 and claims depending therefrom (see page 22-23 of the Office Action in which the Examiner confirms this position). Thus, the combination of Levy *et al.* and Roach fail to set forth a prima facie case of obviousness. Accordingly, the rejection may be withdrawn.

Claim 18 stands rejected under 35 U.S.C. §103 as allegedly unpatentably over Sullivan *et al.* in view of Jampol *et al.* and further in view of Roach (EyeNet Magazine March 2001) and further in view of LumaCare (press release). Applicants respectfully traverse this rejection.

Claim 18 is dependent upon claim 1. Each element of the independent claim and any intervening claims is present in claim 18. Claim 1 recites treating a subject with age-related macular degeneration. Jampol *et al.* is thus not prior art to claim 1 and claims depending therefrom (see page 22-23 of the Office Action in which the Examiner confirms this position). Thus, the combination of Levy *et al.* and Roach fail

to set forth a prima facie case of obviousness. Accordingly, the rejection may be withdrawn.

Claims 41-42 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Sullivan *et al.* in view of Jampol *et al.* in view of Roach and further in view of Miller *et al.* Applicants respectfully traverse this rejection.

Claim 41 and 42 are dependent upon claim 1 and 24, respectively. Each element of the independent claim and any intervening claims is present in claim 41 and 42. Claims 1 and 24 recite treating a subject with age-related macular degeneration. Jampol *et al.* is thus not prior art to claim 1 and 24 and claims depending therefrom (see page 22-23 of the Office Action in which the Examiner confirms this position). Thus, the combination of Levy *et al.* and Roach fail to set forth a prima facie case of obviousness. Accordingly, the rejection may be withdrawn.

For at least the foregoing, the Applicant submits that the claimed invention is patentable and request reconsideration and notice of such allowable subject matter.

The Director is authorized to charge any required fee or credit any overpayment to Deposit Account Number 50-4586, please reference the attorney docket number above.

The Examiner is invited to contact the undersigned at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,

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